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SPEECH

OF

JAMES TALLMADGE, ESQ.

ON

THE SUBJECT OF GIVING THE CHOICE

OF

PRESIDENTIAL ELECTORS

TO

THE PEOPLE:



In the House of Assembly, on the 5th of
August, 1824.

ALBANY:

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From the Albany Daily Advertiser.

GENERAL TALLMADGE'S SPEECH.

WE now present to our readers a sketch of Gen. Tallmadge's speech on the Electoral Law, in the assembly, during the late session. We have bestowed much time and pains to make it perfect as possible ; and after all, we are constrained to say, it is but an imperfect likeness of the original. Perhaps those who heard it delivered, will only give us the credit of producing something which they can recognize as a faint resemblance of the eloquent appeal which engrossed the intense attention of the house, and a crowded audience, for near four hours, when the countenances of men were seen to lighten up and to lower, as they entered into the feelings of the speaker, and all seemed to yield themselves to the direction of the master spirit who plead for the Rights of Man, and poured forth the thunders of indignation against those who should prove recreant to the holy cause.

Those who are acquainted with the difficulty of reporting debates, will excuse us ; for they know it is morally impossible to transfer to their sheets the warmth and manner of the speaker, even if they are so fortunate as to catch the whole of his matter. But there are men whom no reporter can follow and do justice even to their language. General T. is of this class. Though possessed of a sonorous voice, correct pronunciation and clear enunciation, yet at times his manner is rapid and puts at defiance the skill of the stenographer. Nor is this all. Ever and anon his elocution gradually rises, till like a mountain torrent it rushes onward, demolishing the strong holds and prostrating the ramparts behind which his opponents have entrenched themselves, while he sweeps from his course the rubbish of sophistry ; when the writer, instead of noting down the progress of the speech, finds himself involuntarily listening to the speaker. But we have done our best ; and imperfect as our work goes forth to the world, we trust it will be sufficient to show that in Gen. T. the people had an able advocate of their rights, and the cause of liberty an undaunted champion.

IN ASSEMBLY, August 4, 1824.

The Assembly had under consideration the following resolutions from the Senate :

Resolved, That since the last adjournment of the legislature, nothing has transpired within the letter or spirit of the constitution, requiring an extraordinary session at this time, and therefore the proclamation of the governor, convening the same, is not warranted by the constitution.

Resolved, That inasmuch as the transaction of legislative business in obedience to a proclamation thus illegally issued, and especially in relation to a subject which had been repeatedly discussed and acted upon by the legislature at their last meeting, would virtually sanction a violation of the constitution, and thereby introduce a precedent of dangerous tendency, it is due from the members of the legislature, as well to the constitution under which they sit, and the oath they have taken to support it, as to the highest and best interests of their constituents, that they should forthwith adjourn. Therefore,

Resolved, (if the honorable the assembly concur,) That the two houses will immediately adjourn to meet again according to law.

The Speaker had decided the two first resolutions were only as preface and recital, and that the question must be taken on the last resolution to adjourn.

A motion was made to lay the resolutions from the senate on the table, with view to receive a motion to appoint a joint committee to prepare and bring in a bill providing for the choice of the Electors of the President and Vice President of the United States.

MR. TALLMADGE—In rising to address the house on the present occasion, I cannot forbear to express my acknowledgments to the chair, for the decision that the whole subject, for which the legislature has been convened, is now open to free discussion and liberal investigation. We have for the last three days been struggling to arrive at this point. Questions of order and rules of form, have hitherto been interposed, and hitherto have prevented any statement of the question, which went to avow a final opinion upon the merits of the present controversy. The present question being a motion to lay the resolution of the senate on the table, with view to receive a resolution to bring in an electoral bill, does not even yet in form, present the point of dispute ; but in substance, it will not be misunderstood. And since the chair has at

length come to the decision, to open the debate on the whole merits, the purposes of all can now be obtained. No matter into what form. The sincere friends to the electoral law, and its real opponents, can now marshal themselves into opposing ranks. Let it be explicitly understood, that the present motion to lay the resolutions of the senate on the table, is intended to bring to the test the principles of men. The public will not misunderstand our votes on this occasion ; and according to those votes, we are to be classed hereafter, into two great parties.

Permit me to remark, in whatever terms I may express my sentiments, in the progress of this discussion, I claim no right to impeach the motives of any individual member of this house. It is my official duty to respect the motives of every member, and I am happy to say, that this duty accords with my private feelings. However I may blame and deprecate the conclusions which gentlemen may have formed, and in whatever language I may oppose and combat such conclusions, let me not be misunderstood, for I shall hold in high deference, and yet confess it is not my province to condemn, the motives and feelings of others.

I cannot but felicitate myself and the honorable gentlemen with whom I am associated, in the successful efforts we have made to break the net of form in which we had been inclosed. No matter in what shape we are permitted to address the chair—no matter in what form the subject is presented, provided the people of this state can be enabled to see how, and by whom, their rights have been appreciated and defended on the one hand, and abandoned and rejected on the other. If there be any one in this assembly who entertains doubts on the propriety of an electoral law, or who is unwilling to vote again on that question, let him be gratified in his wish. I will only say that he who has once advocated that measure, with a cordial mind and devotedness of purpose, is bound to continue going on towards its consummation. It is a stale pretence to say he voted for it last winter, and that is a sufficient declaration of his wishes. It is his duty to vote for this law, again and again, and as often as the question shall come up from time to time, and until time shall be no more. Let him then, who felt himself unwillingly bound up by the net of form, rejoice that he is loosed. Let him feel that he breathes the pure air of emancipation, and walk forth untrammelled, to the accomplishment of the great work, which the legislature was convened to perform.

How then do we stand ? We have under consideration a motion to lay the resolution from the senate on the table. It is accompanied by a motion to substitute a resolution to raise a joint committee from the senate and assembly, to unite its wisdom to reconcile any differences between the two houses, and to combine its efforts to procure the enactment of an electoral law. And shall the people be told in this stage of the case, because that bill has once passed this house by a majority of 110 to 4, and was subsequently postponed in the senate, that we are now ready to adjourn, and

that there is no further hope of its passing ? Not so—we are not here to be bound down with such mighty deference to the senate. I ask, will not the resolve of this house, proposing a joint committee to prepare an electoral law, prove as much on our part as the proposition from the senate to adjourn, can prove on their part ? It will at least intimate an opposing opinion, and may lead to explanations, and ultimately secure the passage of the law. Let us treat that honorable body with all the respect to which it is entitled ; but let us not forget the paramount obligations we are under to those to whom we, and they, at unequal periods, are responsible. If we really intend in good faith to pass an electoral bill, let us by our acts indicate that intention. Let us explicitly declare our wishes—let us use our most cordial and strenuous efforts to insure its passage ; and if after all, we shall find that body immovable, and set upon its purpose, we may then adjourn. It will then be understood by every individual in the community, where the responsibility rests ; and we shall be discharged from the duty which now lies so heavily upon us. But if we remain trammelled by the rules and questions of order in this house, and embarrassed with such deference to the senate ; if we vote with such cords upon us, and pretend that although we make and unmake at our pleasure, the rules and orders of this house ; that, although we have bound ourselves with our own hands, yet that we cannot at our pleasure, and with our own hands, unloose ourselves ; our constituents will see through the disguise. They will perceive the want of inclination on our part, and our willingness to fail in the object of their desire. They will discover the hollow heartedness of the stratagem, and condemn us, not only for the course we have taken, but despise us for the weak and transparent artifice by which we may have sought to delude their understandings. Let no vote be given therefore, under the vain hope, or under the delusive expectation, that the people will be cajoled or deceived, by wrapping up the subject in a net of forms. Let it be distinctly understood in this house, as it will be understood abroad, that he who yields to supposed rules and questions of order, and votes against laying these resolutions on the table, votes against the passage of the electoral law, and will be ranked among its enemies. From this conclusion, there is no possibility of escape. If the senate, being apprised that this house insist on a bill, still refuse to act, then, and then only, should we adjourn. Till then we should sit here, under the conviction that no vote given incidentally, and with view to avoid the main question, can be misunderstood by, or disguised before the people.

On this subject, it is our calamity, to have almost every thing brought into the discussion. The republicanism of the friends of the bill has been called into question. The former passage of banks and insurance companies, is now descanted upon. An alarm is sounded forth, for the permanency of party discipline, and our *new friends*, as usual, display extraordinary zeal for the safety

of that republican party, of which they are such recent and active members. I will not stop to reply to such insinuations, or to enlarge on such subjects. I will only say, I was born, and bred, and nurtured, and belong to, and will ever remain in this republican party. But I have higher duties to perform than to follow after party, and the petty expedients of party discipline. Those who know me, must also know that in such debates, I reluctantly engage ; but when in, I bear my part. If gentlemen wish another Tennessee debate, and will set apart a proper time, I promise them I will not be absent. But at this time, I am not disposed to pursue such little game. The question concerns the constitution of our country. It is a question of vital importance, and involves the first principles of our government ; and in its consequences, may shake its very foundation. To my mind, I am now called upon to give the most important vote of my life. It is a vote, which, in its determination, is either to maintain, or to yield, the great principles of our revolution. It is to sustain or to reject those sacred principles for which our fathers fought, bled and conquered. They had lived and suffered oppression under a government, formed of the boasted compound of monarchy, aristocracy and democracy : a government, which public opinion could not constitutionally influence ; from whose oppressions the people, short of revolution, could find no redress, and which depended for its permanency, upon a union between two of its discordant ingredients, as a means to correct and resist the usurpations of the other. It was such a government from which our fathers rebelled. It was to secure freedom and the independence of our country, that they established our present government, rejecting in its formation, those checks and balances, upon which others have been founded, and boldly resorting to the eternal principle of equal rights, and avowing that the form, and object of government must ever be, to accord with the public voice, and to promote the public good. To consummate such high objects, our constitution has been adopted. It guarantees to our citizens equal rights : it provides for the elective franchise, and thereby pledged its observance of the public voice. The theory and the great principle of our government is, to repose for its safety, upon the public will, and to trust for its permanency and for the continued purification of our republican institutions, to the redeeming spirit, found in the silent operation of our frequent elections. At every election, and on every appeal to the people, the pure fountain whence corruption cannot flow, our free institutions are renovated ; and by their conformity to the public voice, every citizen is interested in their preservation ; all inducement to rebellion is removed ; all necessity for revolution is done away. Do we intend to go on and consummate this scheme of self government, so gloriously commenced by our ancestors ? If so, why do we pause on this occasion ? Why do we deny to the people the choice of the electors for president and vice president of the United States, and usurp to ourselves, the exercise of this authority ? We violate the spirit of

the constitution, and break down the great principle of the revolution, for which so much treasure has been expended ; for which so much blood has been shed. Tell us not of your caucus nominations, tell us not of the respect to the senate, and of the binding force of the rules and orders of this house. Tell us not that our party is in danger, and of the necessity to maintain the forms and rules of party discipline. Describe not to us the political undertakers, who haunt our lobbies, and hang upon our deliberations ; away with such idle tales ! But awake ! and behold the precipice upon which our country stands ; and tell to this people, that their constitution is in danger, and their dearest right is violated.

Against the course of proceeding, which the friends of the electoral law have proposed to pursue, the gentleman from Broome, (Mr. Waterman) and from Livingston, (Mr. Hosmer) have presented a barrier, and interposed a constitutional impediment. They insist that no "extraordinary occasion" exists, and therefore, that the call of the legislature by the executive, is unconstitutional, and that we cannot therefore proceed in legislation. They declare their desire to obtain the electoral law, and they stop from the vote of last winter, solely because the call of the governor is unconstitutional. It is not my province, to deny the purity of the motives, under which the gentlemen and their associates have interposed their conscientious scruples against legislation ; but it is my duty to combat the conclusions, to which gentlemen declare their consciences have led them. I will pledge myself, there shall not be left a single point, upon which to hang their tender consciences. If they be right in their position, it is indeed a barrier. . It becomes proper therefore, that we should deliberately discuss that question.

The words of the constitution are—"the governor shall have power to convene the legislature (or the senate only) on extraordinary occasions." Under these words, I advance not only the proposition, *that the call of the legislature, and what constitutes an extraordinary occasion, rests in the discretion of the executive—but that he is the sole judge—and that there is no power to control him in the exercise of that discretion:—*And that he can be made responsible for an abuse of that power only by impeachment.

Gentlemen say, they think the call of the legislature unconstitutional, because no extraordinary occasion exists ; and they therefore support the resolution to adjourn. I deny their right to pass upon this subject. But are gentlemen aware of the dilemma in which they place themselves ? If we are not constitutionally together as a legislature, I ask, by what right do we hold possession of this floor, and forbid the spectators to come in upon us ? This house is not ours ; it belongs to the people, whom we forbid to come in.—They paid for it. From whence does the Speaker derive his right to command silence, and even threaten to punish the gallery, for the ardent expressions of its honest opinions ? Will gentlemen adjourn, because we are unconstitutionally called to

gether? And after such a vote, will they turn round and ask the speaker for his certificate, to draw their pay for travel and attendance? Can it be supposed that the public feeling will endure a determination, that the call of the legislature on this occasion, is constitutional to open the door of the treasury and pay for our services; but unconstitutional, to pass the electoral law, so loudly demanded by the public voice? Gentlemen must take care, lest the purity of their motives, which the decorum of this house compels me to admit, shall be openly and boldly denied, by an injured people.

The constitution of the United States vests in the president, the power to "convene both houses of congress, or either of them, on extraordinary occasions,"—and by the laws of congress he is also authorised to call out the militia, to "suppress insurrection, and to repel invasion." These powers are subject to the same construction, as the constitution of this state. To pronounce, whether the occasion is extraordinary, or whether there is an insurrection to suppress, or an invasion, to repel, rests solely in the discretion of the executive. Such is the common sense of the transaction. The president in such case, can be amenable to no power, except by way of impeachment. Any other construction would unsettle and overturn the administration of the state or general government.

Whence comes this notion of a constitutional prohibition, against the call of this legislature? It has been sent forth in an elaborate "*brief*," published in a late *Argus*, and sent to the different members of this house, (save myself,) and which the gentleman from Broome and from Livingston, have so ably rehearsed on this floor. Whose ears have not heard, and whose memories do not declare, that the construction of the executive powers now contended for so loudly by our *new republican brethren*, first came from Massachusetts during the late war? It was then, that the president of the United States acted under the power vested in him, and undertook to call out the militia to *repel invasion*. It was then, that the state of Massachusetts, assumed the very ground, which is now contended for by the opponents of the electoral law. The orders of the president of the United States were resisted upon the ground, that the militia who were called into service—that those who were required to obey, were entitled to judge of the extraordinary nature of the emergency, which justified the call. Having themselves determined, that no occasion for the call existed, the call then, as in the present case, was pronounced unconstitutional. Hence it was, that such were the grounds of defence before courts-martial, of all those who undertook to disobey, when called as the militia, into the service of the United States. The courts-martial throughout the United States, maintained the construction of those executive powers, as we now contend. The governor and senate of Massachusetts, however, combatted this construction, and in their zeal of opposition, openly announced, that sooner than

yield to such authority, on the part of the president of the United States, they would seek protection, and take shelter under the cannon of the bulwark of our religion, then fighting for the liberties of the world.

Are the gentlemen aware, that by the doctrines for which they now contend, they are thus arraying themselves in the ranks of opposition to the republican party? Are they conscious that the principles they contend for, are the same which were assumed by the Essex Junto—acted upon by Gov. Strong, and which well nigh shook our government to its centre; and in their consequences, pointed to “treason, statagem and spoils,” which led to the Hartford Convention, and were much too far adopted and cherished, by that political party, then influenced by those men, who are now the busy actors in the revival of those exploded doctrines; and who in terms abandoned their former party on the 14th day of April, 1820, when by a public manifesto, they declared the *party was disbanded and existed no longer*. Since the memorable proclamation dissolving the federal party, and to which I recognise the name of the gentleman from Broome, and one more on the other side of the house, who professed to act on that occasion for themselves and their associates; some gentlemen seem to entertain prejudices against all proclamations, and are very ready to pronounce a call of the legislature in that manner, unconstitutional, and even dangerous to the welfare of that republican party, about which they are now so solicitous.

Mr. T. next adverted to high judicial authorities in the states of South Carolina, Virginia and Pennsylvania, to show, that in the construction of this constitutional prerogative, it was an exercise of discretion, from which there was no appeal, and no responsibility, but to the people; and that, either indirectly, in the forfeiture of their confidence, or directly, through the medium of the legislature, in the form of impeachment. He said the supreme court of the state of New-York had repeatedly established, by judicial determinations, this construction of these executive powers. In 11th John. Rep. page 150, is a case, testing the correctness of a court-martial decision, imposing a fine on the militia for delinquency, in coming out into the service of the United States. The supreme court decided in terms,—“That it was not necessary to allege, that a case had occurred, which gave authority to the president of the United States, to call out the militia. The president alone is made the judge, of the happening of such event, and he acts upon his responsibility, under the constitution.”

Mr. T. then referred to the cause of *Marbury vs. Madison*, in the supreme court of the United States, reported in 1st Cranch, page 137. It was a motion for a mandamus to compel the then secretary of state, to deliver the commissions to the judges and persons appointed to office, on the night of the third of March, before Mr. Jefferson came into the Presidency; and who forbade those commissions to be delivered to the hopeful expectants of office.—

CHIEF JUSTICE MARSHALL, then in feeling with the fallen party, who were seeking to obtain commissions for office, gave this decision. "By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which, *he is to use his own discretion*, and is accountable to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders. In such cases, their acts are his acts ; and whatever opinion may be entertained, of the manner in which executive discretion may be exercised, *still there exists, and can exist, no power to control that discretion*. The subjects are political. They respect the nation, not individual rights, and being entrusted to the executive, the decision of the executive is conclusive."

Mr. T. illustrated this decision, and explained and commented, upon the political history of that period. He also referred to the general principles and established doctrines of the law, in constructing the rights, duties and powers, given to executors and trustees in cases of discretionary authority.

If, said he, there was any thing of corruption charged upon the executive, it would be our duty to listen to it. But acts of indiscretion, are altogether beyond our reach. The executive may as well arrogate to pronounce upon the discretion of this body, as we to pass upon the discretion of his acts. If we have the right to pronounce on the discretion of others, the measures of the senate may meet our condemnation ; and even the decisions of our Speaker upon questions of order, may obtain our censure.

Such has been the uniform construction of our courts—such has been the political doctrine of the republican party, from the day of 'Thomas Jefferson, to the present time. I do not impeach the motives of the honorable gentlemen (Mr. Waterman and Hosmer,) and their present associates, for entertaining the old federal principles. I attribute it, in charity, to its true source. Unfortunately, those gentlemen were educated in the *old school*, and have early prejudices, and imbibed principles, which their *modern associations*, have not yet enabled them to shake off. If we do find them often falling into error, by mistaking the discipline of party, for the soundest principles of government, we still must confide in that conscience, to which the gentleman from Livingston, so often and so feelingly appeals. It is their conclusions, and not their consciences, with which I am at variance.

The great proposition is, that the exercise of this constitutional power, is at the discretion of the governor, and at his peril. It is assimilated in principle, precisely to the power which is given to the president of the United States, in calling out the militia. The great difficulty in the present case, is, that there may be some, who may attempt to shelter themselves under the pretended constitutional question, and thereby seek to evade the question of the electoral law. But all such disguises will be in vain. The Ameri-

can people are a thinking and sagacious people. They will comprehend the length and the breadth, the height and the depth of this plausible device. Let those who undertake to exercise their discretion, and who (to screen themselves from judgment) say that the call of the legislature was not discreet, be apprised, that they will be understood in effect to have said, it is not discreet to trust the people with the electoral law. The people have demanded this law, and they will never understand these nice distinctions about questions of order and indiscretion, as a sufficient reason for their disappointment, and for their blighted hopes.

[Mr. T. here elucidated his position at some length, and by a reference to cases—but which was lost by the reporter.]

If we depart from this rule, the constitution will rest for its construction, not on its own pillars, but upon the opinions from time to time of our *variable* majorities of our variable legislatures, in their variable conflicts. If we depart from it, we unsettle every thing in judicial proceedings, and in the administration of our state and national governments. It is not fixed principles, but the perverted will of a dominant faction, which is to give the construction, and determine the meaning of the constitution.

For further elucidation, (said Mr. T.) take the cases cited and relied upon by the gentleman from Broome, and see if every case, when understood, does not prove the opposite conclusion from that, for which it has been cited.

Governor Jay called the legislature in 1798, on account of the state of our affairs with France. Will gentlemen say, that the *discretion* and the constitutionality of that call was to be pronounced upon by the party feelings of that day? If so, I ask them, what would have been the determination upon the discretion and the constitutionality of that call, if the democracy of your country had then prevailed in the legislature? If this does not satisfy, let them look at the next case cited by them, in the catalogue of extraordinary occasions.

Governor Tompkins called the legislature in 1814, on account of the then existing war. Notwithstanding they had legislated on the subject at their previous session, yet the pressure of the times, in the opinion of the executive, constituted an extraordinary occasion; and required another meeting. I again ask, what judgment would have been pronounced upon the discretion, and the constitutionality of that call, if the opponents of the war, had then held the majority, in this assembly? And have we come to this? Has party discipline, and caucus dictation, reduced us so low, that the just exercise of executive authority, and the constitutionality of legislative measures, are to depend upon casual majorities in party times?

If gentlemen are not content with the cases cited from our state, let them consider the cases of extraordinary calls of congress, by the president. Mr. Adams called congress together in 1797, because of our affairs with France. Who does not remember the

incidents of that day ? Whiskey insurrections—the hot-water war—and the black cockades, are instantly presented to our minds.

If the rule now contended for, be the correct rule for the construction of the constitution, and for the determination of executive discretion, let the republican party, which gentlemen now so violently love, pronounce upon the discretion and constitutionality of that call, and of those measures.

Mr. Madison called congress together in 1814.—They had at their previous session legislated on the subject of the then war, and at their discretion, had made provision for it. But the president finding further provision necessary, deemed it an extraordinary occasion, and again convened them. Did the discretion of that call, and the constitutionality of the measures adopted on that occasion, depend on the majority which happened then to prevail in our national legislature ? If so, let us bow in gratitude to the Almighty ruler of events, that our country was preserved. Let those, who have left the school of their first love, while they yet maintain its principles, inform us, of the peril which awaited us—of the fate of our country had the Massachusetts construction then prevailed : Had the Massachusetts representatives found in our councils, associates, to have constituted a majority, and thereby have pronounced the call of that congress, and the measures then adopted, unconstitutional. Our enemies might have then marched, unresisted, over our land, and with the besom of destruction, have swept us from the face of our country:

(Mr. T. proceeded in illustration, at some length, and with an animation, which the reporter could not follow.) He insisted, that any other principle, than that which he had assumed, would unhinge all the just principles of government, and make the constitutionality, or unconstitutionality of a measure, depend, not on its merits, but on the fluctuating ascendancy of party.

A precedent, (said Mr. T.) has been produced from *George Clinton*, and read from the journals of congress in 1786, by the gentleman from Broome, wherein the governor refused to convene the legislature, upon the request of congress, on the ground that it did not constitute an extraordinary occasion, and come within the scope of his authority. Any precedent produced from that venerable man, is calculated to weigh on my mind. The house will pardon me to confess, that the mention of the name of that great and good man, *George Clinton*, awakens in my breast, emotions, which I can with difficulty suppress. He was the friend and patron of my youth. His private virtues are embalmed in the hearts of his friends. His earthly remains are deposited at the seat of our national government, and committed to our nation's care ; while the affections of a grateful people, constitute a mausoleum, in remembrance of his public worth.

The gentleman from Broome, (Mr. Waterman,) has cited this precedent from *George Clinton*, with the imposing, and as he deemed conclusive information, that *George Clinton*, three several times

refused to convene this legislature, upon the request of congress. Did it not occur to the gentleman, to inquire on which side his precedent would prove the most? If George Clinton refused three times, congress must three times have requested. The combined wisdom of your country convened in congress, gave construction to the executive duties of the governor of this state, and three times asked him to conform to their request. He refused compliance. The precedent therefore is, on the one hand, the opinion of congress, then composed of some of the worthies of the revolution; and on the other hand, the individual opinion of the governor of this state.

But let me not be misunderstood. The precedent of Geo Clinton, when correctly examined, will be found to have no manner of relation to the conclusion, for which it is cited. I have lived for several years in the habit of social intercourse with that venerable patriot. In his hours of intimacy and ease, it was his delight, like the war worn veteran, to recount the political battles which had been fought, and the difficulties which had been encountered, in the formation of our government. It was his darling theme: and on that theme, it has been my fortune and delight, to hear lessons of wisdom from the lips of experience.

The subject on which George Clinton refused to comply with the request of congress, and convene the legislature, was, upon an application to this state to surrender the *imposts* for the benefit of the national treasury. Mr. T. went into a particular and interesting detail of the events of that period, the difficulties on the one hand which were found in the progress of the government under the old confederation; the expedients resorted to, in order to avoid the embarrassments under which they labored, and the impossibility of defraying the expenses of government. On the other hand, great jealousy was indicated against too much power in the general government. The sovereignty of the states was maintained with great tenacity: the importance of the *imposts* to the state of New-York on the one side, and to the confederacy on the other; the reluctance with which they were surrendered by the people of this state and by George Clinton, and the collisions arising from this controversy, were the leading causes which led to the formation of the United States constitution.

If gentlemen will advert to the public prints from 1783 to the adoption of the constitution in 1788, they will find, that the states were firm and astute in the defence, and the preservation of their sovereign rights. They even claimed to check and control the general government by an annual account, and scrutiny into its expenditures. Do gentlemen indicate surprise at this fact? Let them be satisfied by looking into the journals of this legislature for 1786. The following message will there be found:

“GENTLEMEN—With this message you will receive for the information of the legislature, a statement of the contingent expenses of the United States, from the 1st of January to the 31st of De-

December, 1785, with the letter from the treasury board, accompanying the same.

GEO. CLINTON.

New-York, 27th Feb. 1786.

Under the confederation, we had our custom house and our revenue laws. This state held the *imposts* for its own benefit, which it subsequently gave up, and which now constitutes nearly one half of the revenue of the United States. When this state was called upon to surrender that impost for the benefit of the union, some of her statesmen then predicted, that if the state did surrender this source of her income, the time might come when our state treasury would be drained, and that we might be left to *ask in vain* for a small pittance of the very revenue collected in our state, and surrendered by us to the union, to aid in improving the navigation of our rivers, and to advance our system of internal improvements. Some even ventured to predict, that the time would come, when the very revenue which we were called upon to surrender would be perverted, and used to secure our degradation as a state ; when the general government, freed from the necessity of rendering to the states an account of its expenditures, and with a treasury filled from our surrendered imposts, would use its influence, and stimulate its agents to weaken our state sovereignties, and invade our state rights. Whether such predictions are about to be realized, I am not required to pronounce. But I can say, as well from the history of our government, as from the words of the venerable George Clinton, it was under the fear that such predictions might become realities, that he was induced so strenuously to maintain state rights, and hold so firmly on all sources of public revenue. It was under such impressions, and with such motives, that the refusal to convene the legislature on the request of congress was written.

The difference between the case of Governor Clinton, as cited, and the one now under consideration, consists in this, that the electoral law has never been acted upon in the senate. The impost question had been acted upon by the legislature in the three preceding years, and in the last preceding session. Both houses had acted, and had ultimately *decided*, and refused to surrender the imposts. It was therefore correctly answered by George Clinton, that the legislature having *decided*, no extraordinary occasion existed, to justify a call of the legislature.

This controversy of the imposts, laid the foundation of the federal and anti-federal parties. It led to the formation of that very party, which enjoyed the plenitude of its power in '98 ; which subsequently, in a time of national disaster, sanctioned a convocation of its leaders, for no legitimate object ; which unnerved and blasted the energies of our government, by giving the construction to executive authority, which is now contended for. But which party, my honorable friends, on the best possible authority, declared to be dissolved on the 14th April, 1820.

[Here followed a strain of irony and elucidation, which the reporter did not catch.]

But, said Mr. T. how stands the precedent alluded to? George Clinton, in his final refusal to convene the legislature as required by congress, says, in the concluding sentence of his letter, "I find myself bound by *inclination*, as well as by duty, to persevere." This word "*inclination*," points to the feelings of the parties, and adopts the history which has been given of the transaction.—George Clinton was the head of the anti-federal party—he was the champion of state rights, and the known opponent to the surrender of the imposts of this state. He therefore informs congress, that his inclination as well as his duty, required him to refuse to convene the legislature, to surrender the imposts, in compliance with their request. This presents the subject in another point of view, and further elucidates the idea, that the extraordinary occasion, is a matter, resting in the opinion of the executive. An extraordinary occasion can never exist, when the executive does not so consider the subject, and thereupon recommend legislation. George Clinton could not convene the legislature in compliance with the request of congress, as on an extraordinary occasion, and then advise them to adjourn, without legislating on the proposed subject. He therefore informs congress, his *inclinations* prevent the call. The president could not have called congress, as on an extraordinary occasion, to provide support to carry on the late war, if in his opinion that war ought not to have been carried on. The governor of Massachusetts, with the opinions entertained by him of that war, could never have justified a call of the legislature, as on an extraordinary occasion, and then have dissuaded them from legislating on the subject. Governor Tompkins, believing our rights as a people and our honor as a nation, were involved in that war, could justly call the legislature, as on an extraordinary occasion, to provide for its support. While the present executive of this state, thought we ought not to provide an electoral bill, when the subject was under discussion before congress, he could not have called us, and then, have advised us, not to legislate. But when, in his opinion, the "*propitious period*" for legislation on the subject had arrived, and the public demanded the law, the extraordinary occasion existed, and it was his duty to convene us.

These cases point to the conclusion, that the *extraordinary occasion* is a matter resting in the breast of the executive. There can be no such thing, as an unconstitutional call of the legislature. He may so abuse his trust, as to incur the penalties of an impeachment. But when we are assembled upon the executive call, we are legally and constitutionally together. It remains therefore, for us, in the exercise of our discretion, to determine, whether we will proceed and legislate, in conformity to the executive recommendation.

This presents the question in its true light. The subject is thus divested of all its mysteries; and the responsibility is left with us,

upon whom it ought to devolve. The public now look to us, for a law giving the choice of electors to the people. That law might have passed, in one half the time we have been together, wasting our time in improper discussions about the motives of the executive, and in idle debates, about the constitutionality of the call of the legislature, and weaving for ourselves a net of rules and forms, as our apology for refusing to pass the law. Away with the petty squabbles of party, and the grovelling imputations which have been made, that this or that member was influenced in his vote, and in his course, on this great question, by the effect it might have upon his re-election to this house. I cannot think any member, on either side, so low as to be swayed by such considerations. Those who know me, know the compensation can be no object to me; and they also know, I have hitherto declined to be elected; and that this is the first time I have been a member of this house; and if my will should be consulted, it would be the last. But while here, I shall fearlessly perform my duty. I disclaim being influenced by party considerations. I am not to this hour, the partizan of either of the presidential candidates, now in the field. Of those candidates, I have expressed my opinion on a former occasion. But I am a partizan for the preservation of the constitution of our country. The precedent attempted to be established, the doctrines advanced, and endeavored to be enforced, as safe rules of government, in my opinion are calculated to undermine its corner stone, and sap its very foundation. I tremble for its consequences. My mind has been engrossed by higher objects, than the petty expedients in party strife. Party collisions, and the little actors of the present day, may rise and pass away without excitement. But when political undertakers, for party purposes, advance doctrines, at variance with all the first principles of our government, and endeavor to make this legislature establish precedents, and give constructions to our constitution, which have for their object, the defeat of the public wish on this great occasion, it is time the public were aroused to a sense of the impending danger. The people have demanded in language, which is not, and which cannot be misunderstood, a law for the choice of electors of president and vice-president, by the people at large. He therefore, who sets up the constitutional question, against the call of this legislature, as a barrier against the passage of the electoral law, not only defeats the law, but perverts and breaks down the constitutional authority, which is necessary to the progress, and to the very existence of the government. He pushes off our political bark, without fast to hold upon, or oar to steer with, into a stream both deep and rapid. Its surges of commotion are already felt, and its current is setting fast upon the ruinous rocks before us; while the fatal cataract below, already echoes in our ears.

In the same breath in which we are told of the popularity seeking measures, and of the unworthy motives, under which some members of this house now act, the inconsistent conclusion is urged

upon us, to retain the choice of electors in our own hands, and trust for the faithful execution of this important duty, to such unworthy men, rather than confide this choice to the people. It betrays the ruling passion, which now actuates the opponents of the law. It points to the true reason, why we last winter voted unanimously for the electoral law—when it was understood, the senate would not pass it. Why, we, who are so loud and so bold in our desire to obtain this law, are yet so patient under its failure : And why we rest so tamely, tangled and tied up with questions of order, and with rules of our own creating, and which remain subject to our will, to revoke and dissolve at pleasure.

“He that runs may read :” but what others would not fail to understand as a matter of inference, the gentleman from Clinton (Mr. Flagg) announced as direct assertion. That member, though replete with political frailties, has, at least, one virtue which becomes a source of public good. He has a chivalrous manner in debate, from which the truth is sometimes inadvertently declared. In his zeal to criminate, he has asserted, my friend from New-York (Mr. Wheaton) is actuated in his course, by a design to prevent a “sick man from becoming president,” and so “opposed to the election of Mr. Crawford.” He says, his opposition to the measures proposed by the gentleman from New-York, (Mr. Wheaton,) is for the opposite reason, and in order to promote the election of the candidate whom he opposes. An honest declaration, which few will avow, but the force of which all feel!!! What is import? that those who wish to oppose Mr. Crawford, are willing to pass the electoral law, but that those who support him, are against the law. Is not this an open avowal, that the result of an election by the people, would be different from a choice made by this legislature? This is the point of controversy. I rejoice that one man is found in the opposition, ready to avow the motives upon which himself and his party are acting. This state is agitated with this question. This struggle is maintained to prevent the choice of electors by the people, because it is a fact admitted, that the result will be different from that to be produced from a choice by ourselves. The right of election is to be denied to the people, the public will is to be thwarted, and the principles of our government overturned, to secure the election of a candidate, through this legislature, in opposition to public sentiment. And yet do gentlemen, as some have done, lay not only *one* hand, but both hands over their consciences, and talk of acting under the sanctity of an oath! I forwarn them of their impending danger : I apprize them of their self-delusion. The crowded gallery which now hear us, which has so anxiously watched the progress of our proceedings ; and the public, who shall read the extraordinary story on our journals, will never extend to us, that charity which some gentlemen so loudly claim, for their oaths and consciences.

Away with this pretence that we wish to pass this law, but cannot, because we doubt the correct motives of the governor, in con-

vening the legislature. Away with the delusion, that because we last winter voted for the bill ; we may now cavil about the constitutionality of this meeting, and by pretending we are yet friendly to the law, hope to deceive any persons other than ourselves.—
 Away with that reasoning which can deny, that the object of allowing an independent people to choose their own rulers ; that a compliance with the will of a free people demanding a particular law, and a consummation of the first principles of our government, by extending the elective rights, does not furnish an *extraordinary occasion* for executive authority, to convene the legislature of the state.

My word for it, if we adjourn without passing this law, when we return and mingle with our constituents, some of us will have questions put us very difficult to be answered. You may go into the field, to the honest farmer, now holding his plough or swinging his cradle through his ripened harvest ; you may tell him the story of our doings, ending with having paid ourselves ; you may inform him of our sincere desire to have passed the electoral law ; and you may explain to him how much we were embarrassed with forms and rules of our own making, and within our power to repeal : you may even assure him, that respect for the senate, would not suffer us to ask them to pass the electoral law, because they first asked us to adjourn : but depend upon it, he will tell you, emphatically shaking his head, it is a strange affair, which he cannot comprehend. He will say it may all be right ; but he can understand only one thing, that the legislature have refused to trust the people with the choice of their rulers. And my life for the forfeit—rising from his labour, and wiping with his hand, the sweat from his brow, he will say to you, I have a book of higher authority, than the rules of your house, a book on which I repose, as the pillow of my hope, and I have there long since learned, that, “ he, who is not for us, is against us !!! ”

The house adjourned to meet again at 5 o'clock.

[The house met at 5 o'clock in the afternoon.]

Mr. Tallmadge—continued—He said the gentleman from Broome (Mr. Waterman,) had endeavoured to sustain his constitutional objection by citing all the calls of the legislature upon extraordinary occasions, and by the frequent use of the name of George Clinton. The message of George Clinton to the legislature in 1786, has been read. It is, “ the nature of the adjournment of the legislature at their last session, obliged me to convene you by proclamation. This is a power which cannot, consistently, with the constitution, be authorised, but on extraordinary occasions.” If the gentlemen were better acquainted with the history of our government, they would not rely on precedents, which, to those who know them, prove nothing.

Before the revolution, and under the colonial government, the legislature of this state was always convened by proclamation, and adjourned by prorogation. The governors at that time claimed

the same authority over the legislature, then and not exercised by the king over the parliament. When the constitution of this state was adopted, one of its provisions required the legislative proceedings to be conducted according to the usages and customs of the colonial legislature. This was supposed to be imperative, and for a long time it was practised, for the legislature to adjourn, not to a given day, but until the governor should convene them by proclamation. Such had been the form of the adjournment, at the previous sessions. And when governor Clinton convened them by proclamation, in 1786, he informed them in his message, of the impropriety of their former adjournment. That message, and his recommendation, led to the passing a permanent law, fixing a time for the annual meeting of the legislature, unless otherwise ordered by law or proclamation. Upon the same principle of conformity to the usages of the colonial government, the governor of this state has been required to attend in person, and deliver his speech at the opening of a session : and the legislature made their answers, and the executive his replies,—until the usage was revoked by the late amended constitution ; and the usage of making the executive communication by message, has therefore been substituted. The precedent cited, therefore, when understood, certainly proves nothing in support of the argument for which it was produced.

One other case has been cited by the gentleman from Broome, on which governor Clinton convened the legislature in 1789, as on an extraordinary occasion, to choose senators, to represent this state in the senate of the United States. I am constrained to believe, that my friend from Broome has spoken from the “*Argus Brief*,” rather than from his own diligent research, or surely he would never have pressed into his argument, such an authority as the one last produced.

It must be remembered, that the constitution of the United States, was adopted in July, 1788. Governor George Clinton convened the legislature of this state in December, 1788—“to provide for carrying into effect the constitution of the United States.”—It was at that session, which continued until March, 1789, that George Clinton recommended the legislature “to provide for the choice of the Electors of President and Vice President of the United States, by the people and by general ticket.” It was at that session that the senate in their answer to the governor, “approved of giving the choice of the Electors to the people—but *could not then from want of time*.” It was then that the insurmountable difficulty of *want of time* to give the choice to the people, was first presented. It was afterwards incorporated into the recital of the law of 1792 ; and since continued to the present day—and yet exists and now remains immovable.

The legislature 1788, next endeavoured to choose Electors of President and Vice President, and *senators*, to represent this state, in the senate of the United States, by concurrent resolutions.

They could not agree in the candidates. They appointed joint committees to consult—committees of conference—and then held joint meetings of the two houses, with managers to act in behalf of each, and yet they disagreed. The senate, at that time, refused to meet the assembly in joint vote. The result was, that the Electors were not appointed, and this state lost its vote in the choice of the first president. And the further result was, that the two houses of the legislature, could not agree in the choice of *senators*; and this state remained unrepresented in the senate of the United States. And the legislature, after spending a fruitless session, in attempting to choose, or in other words, to prevent choosing, Electors, and Senators, adjourned to meet again at the annual period fixed by law.

It was under such circumstances, and after such proceedings, that George Clinton convened the legislature in 1789; and which is now cited to prove that the call of the present legislature is without an extraordinary occasion, and therefore unconstitutional.

The proclamation of George Clinton, and his message to the legislature, in 1789, are worthy of consideration; and to my mind, proves the whole case for which I contend; and certainly justifies the present proceedings which are now so violently assailed.

The proclamation is in these emphatic words—“Whereas *an occasion exists which renders it necessary*, that the legislature should be convened at an earlier period than that appointed by law, for their annual meeting, *therefore*, they are required to meet, on the sixth day of July next, at Albany. June 4th, 1789.

George Clinton.”

The message is in these words—“Monday, July 6th, 1789.

“Gentlemen of the senate and assembly—I conceived it to be my duty to convene you at this early period, that the legislature might again have an opportunity of choosing *senators* to represent this state in the congress of the United States: And I flatter myself that an occasion so important, will command an approbation of the measure. I am sensible, however, that should your session be protracted at this season, it would be injurious and inconvenient to many of the members. Impressed with this idea, and as *nothing extraordinary has taken place in the recess*, I shall not attempt to call your attention to any other object.”

I ask, was ever a case produced more in point? Could a case exist, which would be a more triumphant justification, in form and in principle, of the call of the legislature by the present executive, and of his whole proceedings? Was the legislature of 1789, unconstitutionally convened? If not, how can the call of the legislature at this time be pronounced unconstitutional?

George Clinton did not recite in his proclamation the reasons for the call. He assumed his right to pronounce, in his own opinion, upon the *extraordinary occasion*, and he therefore recites, “Whereas *an occasion exists*, which renders it necessary that the

legislature should be convened," thus giving at once his construction of his executive powers, and of the "extraordinary occasion." In his message, he says, "*nothing extraordinary has taken place in the recess,*" and that "he conceived it to be his duty to convene the legislature, that they *might again have an opportunity to choose senators.*"

I again ask, is it possible to suppose a case, more in point, or an authority more conclusive? The legislature of 1788, had spent a session on the subject of electors and the choice of *senators*. They had considered, acted and disagreed, and adjourned over to the next winter. Yet George Clinton convened them in July, 1789, by proclamation, that they *might again have an opportunity to choose senators*.

This house passed, by an almost unanimous vote, an Electoral Bill, which the Senate postponed for consideration—and wholly omitted to act upon. The people demanded the passage of the law. The public prints proclaimed the charge of corruption in the choice of the first officer of our nation; and unhesitatingly announced, that the electoral votes of this state were the subject of bargain. Under such circumstances, who dare say it was not a discreet exercise of executive authority to convene the legislature, and recommend committing the choice of electors to the people? Who can say, that by refusing to commit the choice of electors to the people, we do not assume an awful responsibility? We to whom undue influence and even corruption are imputed, hold the exercise of this high trust, in defiance of the public will, and in violation of the right of the people and the spirit of our constitution. Under such circumstances, who will give us credit for our conscientious doubts about the constitutionality of the present call for us to assemble? Who will believe we sincerely wish to pass the law, when we are put by with such idle pretences and miserable expedients, as are set up on the present occasion?

If the argument be correct, that the constitutional authority to pronounce on "an extraordinary occasion" is vested solely in the governor, and for which he alone is to be responsible, it is proper for us next to examine, whether the present call of the legislature, was a discreet exercise of his executive authority. How are the facts? A question of great national excitement had arisen. The people called for the right to choose the electors. The governor was informed, and by a senator of the United States, that an attempt would be made in congress to provide a uniform rule for the choice of electors, throughout the United States. The governor, confiding in such information, communicated his message to this legislature last winter, in which he recommended us to omit legislation on the electoral question, till a "*more propitious period.*" This assembly, however, go on and pass a bill by 110 to 4 votes, and thus express our opinions upon this important subject. The senate receive this bill—refer it to a committee, who present a voluminous report, meaning any thing or nothing, but in which they

tell us that “efforts are *seriously* making in congress” on the subject; and resolved, that it is inexpedient for us to legislate, while those proceedings are there pending. When the senate undertook to indorse for the proceedings in congress, by telling us efforts were *seriously* making, it was out of the ordinary course of proceeding. It gave alarm to my mind, although it seems to have lulled the watchfulness of the executive. The senate of the United States soon after, indefinitely postponed the consideration of the subject. Congress continued its session more than one month after the adjournment of this legislature, and during which time, it was competent for the senate of the United States to have resumed the consideration of the subject, or for the house of representatives, to have originated it anew in that body. After the senate of this state, had so gratuitously informed the executive, that the efforts in congress were “*seriously*” making, it was surely discreet and proper for him to wait till the adjournment of that body, before he recommended further proceedings on our part. It was under such circumstances the present legislature has been convened—and I maintain the call is a discreet and proper exercise of executive authority.

We are assembled as a free and independent legislature. Being here, clothed with the power of keeping order in the house, and of sending committees to the senate, whom we so much respect, and to the executive, we are here in all respects as a legislature. It is at our discretion, whether we will proceed to legislate. The recommendation of the executive, for us to pass the electoral bill, is not imperative upon us. It is at our option. The responsibility rests with us—Not passing the bill, will be understood by the community at large, an evidence against us, of the want of will to pass it.

If gentlemen yet feel embarrassed, with supposed rules of this house—with questions of order, and forms of proceedings, whereby they cannot advocate the passage of the bill, I tell them there are no such rules and orders. But to remove all difficulties on this point, I propose to suspend and revoke, all such supposed rules and orders, for the purpose of acting forthwith on the electoral bill. For such purpose, I wish to be understood as now making such a motion. But, here this motion cannot be in order, because, by reason of the busy actors on this floor, all, of course friends to the electoral law, and by the course of decisions adopted by our worthy and impartial Speaker, nothing is in order, but the consideration of the resolution from the senate “*immediately to adjourn.*”

The constitution of the United States provides that “each state shall appoint in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress.” Thus clearly in its very terms, indicating that the legislature was to direct the manner of the appointment by a legislative

act, and not to retain and usurp to themselves, the exercise of that power, which they were authorised to commit to others. The language used in another article of the constitution, conferring authority to be exercised by the legislature, fully justifies the construction now insisted upon. It is "the senate of the United States shall be composed of two senators from each state, *chosen by the legislature thereof* for six years."

George Clinton was President of the convention which adopted the constitution of the United States. He understood its true construction, to give the choice of the electors to the people, and by general ticket—and he accordingly, in 1789, by message so recommended to the legislature of this state. The senate at that day accorded with his recommendation, but proposed a different mode, from "want of time."

Hamilton, in the 68th number of the Federalist, writes thus in defence of the constitution, in relation to the choice of President—"It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust should be confided. This end will be answered, by committing the right of making it, *not to any pre-established body*, but to men, *chosen by the people for the special purpose*, and at the particular conjuncture—A small number of persons, *selected by their fellow citizens* from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation. Nothing was more to be desired, than that every practicable obstacle should be opposed to cabal, intrigue and corruption.—These most deadly adversaries of a republican government, might naturally have been expected, to make their approaches from more than one quarter, but chiefly from the desire in foreign powers, to gain an improper ascendant in our councils. How could they better gratify this, than by raising a creature of their own to the chief magistracy of the union? But the convention have guarded against all danger of this sort, with the most provident and judicious attention. They have *not made the appointment of the president, to depend on pre-existing bodies of men, who might be tampered with before hand, to prostitute their votes*; but they have referred it in the first instance, to *an immediate act of the people of America*, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment."

I will not further pursue this part of the argument. But will consider the propriety of giving the choice of the electors to the people, as a point admitted—as a proposition to which, we are all pledged.

What then is to be the result, if we omit to pass this law? The people of this state are to be refused a voice in the choice of the president. The acknowledged reason for our refusal to confide this trust to the people is the expectation that a different choice can be produced from the intervention of this legislature, than what will follow, from the voice of the people at large. And are

we come to this ? Do we pronounce that we dare not trust the people ? And have we the assurance to proclaim, that the liberties of this country are more safe in our keeping than when confided to the people themselves ? As one individual, I protest against such doctrines, and against measures having for their tendency such results. Shall our assembly, consisting of 128 members, assume to answer for one million and a half of freemen, and make choice of a president at variance with their will ? Recollect an historical fact, that about fifteen thousand voters, now choose a majority of the British parliament, which profess to represent and speak for the British nation, consisting of more than ten millions of people. It was to throw off such a system ; it was to establish a government founded on the principles of equal representation, and the free expression of the public voice ; upon the extension of the elective rights, and identifying every citizen with its preservation, by its conformity to the public will ; for which our fathers encountered the perils of a revolution, and waded to independence through seas of blood.

It is for the safety of the constitution ; it is for the preservation of the fundamental principles of our government, for which I plead. Let them not be brought into danger. If it be proper for ourselves to execute this important electoral power, it is more proper to confide it to the people, where of right it belongs. If the power can safely be executed by us, it can yet be more safely executed by the people. I will not say any portion of our house are dishonest, and may be approached with improper inducements. But I will say, when the electoral law shall be passed, the people cannot be approached, and their votes will declare the public voice. It is my pride to maintain, that the American people, have as much integrity of character, as any people on earth : But yet excepted cases of corruption may be found among us.—Should a case be found in our body, and in the execution of this trust, it might give the vote, which may constitute the choice.—Amongst us, corruption may operate—amongst the people it cannot be brought to bear, and will be unable to influence.

The slanders of the day have even imputed to some of our body improper motives, in the votes given the last winter for banks and insurance companies. The gentleman from Clinton, (Mr. Flagg) has felt it necessary, twice this session, to disclaim such insinuations as against him. If hearers can be found to listen to suspicions against us, arising from such paltry inducements, as banks and insurance companies, can hold out, how much more ready will the world be, to believe, at least, some of us have been corrupted, when the inducements of this question, the pelf and patronage arising from the presidential contest, are held up to view ?

I tremble for the consequences of the precedent, which we are this day called upon to establish. What may seem to be the visions of fancy, may come short, of the sad reality. I fear that our refusal to consummate the principle of our government, by confi-

ding this great and last electoral right, to the people, may sow the seeds of disunion ; and that the story of this day's doings, may be too soon read in the history of our nation's ruin.

When the present generation shall have passed away, and with them, the incorruptible integrity which now sways our councils ; when some fifty years hence, a corrupt, an ambitious, and an aspiring race of younger men, shall occupy the places which we now hold, a *combination* may be formed to impose a president upon this free country—a combination cemented by cupidity, excited by the hope of preferment and perhaps, even instigated by foreign influence. Should such a combination ever be formed, it would cast about for the means and instruments to accomplish its unholy objects—It would find our people confiding and unsuspecting—It would find nineteen states out of the twenty-four, had placed the choice of the electors for president and vice president, in the hands of the people, where corruption could not reach. It would select two of the greatest states in the union, perhaps Virginia and New-York, the one holding at nought the public voice, and retaining in the hands of its lordly freeholders, the choice of the electors ; the other contributing nearly one half of the revenues of the nation, and with a million and an half of freemen, yet dragooned by caucus dictation, and guided by party discipline ; with its legislature denying the people their electoral right, and holding in its own hands, the greatest electoral vote of any state in the union. With two such states associated, and with one cabal formed at Richmond, and another at Albany, they would invite Georgia, whose legislature also holds the electoral vote of that state, to unite in the combination and participate in the spoil. A few selected agents, some clothed with judicial influence, and others attired in the robes of senatorial, dignity, and all to promote the public good, travelling about the country and returning here to visit the rooms of the members, and haunt the lobby of this house, would complete the scene.

This combination may select for its candidate some man whose vision shall be already dimmed to their proceeding : who shall sit holding untied, the purse strings of the nation ; and by the aid of gratuitous loans of public money, wielding the mercenary influence, of those artificial beings, whose pursuit is discount, who exist without a soul, and whose chief end, is private gain.

The day may come, when such an association will cease to rest in fiction. The time may come, when we, ourselves, or our posterity, may point out about our legislative hall, the agents of such a combination, acting under the precedent, which we are this day called upon to establish.

Do I hear it whispered from across the house, that three states can never elect a president ? It is so. But who does not see that a combination of three states, in times of division and party, may bring their favorite candidate into congress—a congress perhaps previously committed and pledged by caucus nomination. It is

here, where the greatest danger, is to be apprehended. It is here, where the flood-gates of corruption, are to be opened, under the guidance of foreign ministers, and the open and secret agents of despotic kings, wishing to blot our government, from the list of nations.

Who can doubt, but the form of our government, excites the envy and hatred, of all the governments of Europe. It is an asylum to the oppressed of the human race. It is a terror to the crowned heads of the whole world. They are all interested in our destruction. Our example, is at war with their existence. On looking around, we find no friend who can come to our assistance, in an hour of peril and disaster ; we must rely solely upon the strength of our own arm for our national safety. We stand insulated and alone, with the whole world in opposition.

Cast your eyes over the map of the world, and mark the dark picture, which lies before. Spanish America, has indeed broken the chains of her slavery, and is now struggling to gain a place amongst the nations of the earth. But when we look at her past and present condition, can we ever hope to find a coadjutor in her ? They have slept for centuries in the depth of human degradation. Ignorance and superstition was the policy by which they have been ruled. A late manifesto from the Patriots informs us, that no common school had been permitted, during the last three centuries ; and even till the revolution, there were but three printing presses, and those under the direction of the Inquisition, and used only to announce the royal orders. A people which have been so enslaved must require a lapse of time, before they can be fitted to enjoy what we understand by liberty.

Africa, lies as barren of intellectual light, as the burning sands of her deserts. Civil government is unknown to her sons, save on the barbary coasts, where they associate for rapine and plunder. Asia, lies a dreary waste ; a wide field for civilization and missionary enterprise. There the Emperor of China, disdaining to be of human origin, or to acknowledge even the members of the holy alliance as his equals, claims to be the *brother of the Sun*.

Look at Europe ; Spain, is degraded, ruined, and lost. The inquisition, presides over her destinies. France, has struggled for liberty. She has passed the throes of birth ; endured the agonies of death, and fallen back into the arms of legitimacy. Austria, lies prostrate beneath the weight of her feudal system which yet flourishes there ; and whose theory is, that kings and nobles were born to rule and the people to obey. Prussia, sleeps in the arms of despotism ; while Russia, with her autocrat and her countless hordes, hangs like a vast avalanche ready to precipitate herself from the north, and in her descent, to overwhelm, even the governments of Europe. This mighty power, conscious of her strength, and aiming to extend the empire of the holy alliance, till it shall become universal, joins with the murderous Turk, to erase from the face of the earth, the cause of Grecian liberty. It is this migh-

power, for whose schemes of dominion, Europe and Asia are too limited, which claims empire on the continent of America, and is now in collision with us for territory.

Surrounded by such associations, it is time we awake to the perils of our situation ;—away with the petty strifes of party contention—away with the little expedients, to advance this or that candidate to office. The question now under consideration, is one of vital importance to the safety and to the first principles of our government. Let us be cautious, lest by our divisions we invite despotic governments to send their emissaries among us. Let us be cautious, lest in eager pursuit, of chimerical objects, we should jeopardize the blessings we enjoy, and lose this precious opportunity of completing, what other nations have been unable to effect, the establishment of a representative government, emanating entirely from the people. According to our determination, the people of this country are to be admitted to the full participation of their elective rights ; they are to feel it is a government, administered by themselves ; and that its free institutions are depending on them for safety and support : or, they are to be excluded from the choice of their own rulers, and held at variance with their own government. When foreign foes shall march upon our land, shall we, the puny members of this legislature, and who have usurped the choice of the president of this nation, step forth to maintain his administration ? or shall we then, without our shoulders to the wheel, in humility, pray for assistance to that Hercules, whose right and whose will, we this day, dare to outrage ? Let not our party zeal, drive us to adopt measures, so much at variance with the great objects of our revolution, and thereby establish a precedent, which may endanger our safety as a nation.

Look at *Poland* : our country may there learn from her misfortunes, a lesson of wisdom. She once possessed an elective king. But even this mockery of popular rights, was offensive to the despots of Europe. The emissaries of foreign powers, produced divisions among her citizens, and intermeddled with their elections. A convocation of her *Diet* was a summons to arms ; and the election of her king, was the beginning of war. Her citizens became martyrs to their country. But *Poland was dismembered : and the ruthless hand of despotism, has wiped her name from the map of Europe.* Her valiant son, who was once with us, and fought for the liberty which we now enjoy, returned home, and long struggled for the existence of his country. But so disastrous was her fall, that even

“*Hope, for a season, bade the world farewell !*
“*And freedom shrieked, as Kosciusko, fell.*”

In this gloom, through which we have travelled, I admit, that, excepting our own country, it is from England only, where a ray of light breaks forth to illumine the “ pitchy darkness of the chilly

right," which rests upon enslaved man. But mark how slow, even there, has been the progress of the human mind, in the science of civil government. Sixteen centuries have rolled away, while her subjects have hugged their chains, and joined in the chorus to the *Divine right of Kings*. The boasted *Magna Charta* of English freedom, was a contract extorted from King John at Runnymede, for the benefit of the nobles ; and without recognizing the common people, as entitled to a share in the distribution of political power. It was not until the revolution of 1688, that *the people* were first acknowledged and recognized, as a component part of that government. It was then a question solemnly debated in the British Parliament, in the shape of resolutions ; whether there was an original contract between the king and the people. A vote being carried by a small majority, in favor of the people, justified a second resolution, that the king had violated the contract, and had *abdicated* the government. This measure drove James 2d into exile, and put William and Mary on the throne. It overturned the maxim of hereditary indefeasible right, and consummated the glorious revolution, establishing English freedom.

Until after this period, the boasted parliament of Great Britain sat, not in its own right, and as the representatives of the people, but, as the servants of the crown ; and attended by its officers. *Elizabeth* told three successive parliaments, they were her servants. She forbade them to debate, and commanded them to answer, to such business as her crown officers laid before them, by a single "aye," or "no."

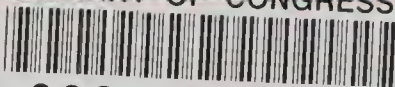
Notwithstanding the revolution of 1688, yet by reason of the imperfect system of the right of suffrage, in the choice of members of parliament, so slow was the operation of the public voice, and so little were the people concerned in the affairs of government, that in 1771, it was insisted on, as a contempt of parliament to publish its proceedings. Five printers, were at one time, brought up for contempt, not for misrepresenting or abusing, but for publishing to the community, information of the state and progress, of business in the house of commons.

How differently has been the theory and the practice of our government ? For the darkness of ignorance, we strive to substitute the light of intelligence. Our common school system, has carried information into, and ennobled, the lowest grades, of our community. Our people have become habituated to self-government, and are entitled to an equal voice in the choice of their rulers. Instead of bringing up printers for contempt, who publish our legislative proceedings, we court public observation, and encourage stenographers to report, and inform the public mind. It is the theory of our government, to repose for its safety, on the public feeling ; to trust for its perpetuity, on the free exercise of the elective right. Let us then rise above the narrow views of party strife, and fixing our hearts and our hopes, on the final consummation of our system of government, in giving this last elective

right to the people, we shall preserve unbroken the spirit of our constitution and the affections of a free people.

We ought to refuse this resolution from the senate to adjourn. Let us declare our opinion in favor of passing the electoral bill. Let us send a committee to advise with the senate. If they still refuse to act ; we shall then have performed our duty. The responsibility will rest upon them.

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